

REMARKS

Reconsideration of the present application is respectfully requested. Claims 2-4 and 27 have been canceled. Claims 1, 5, 6, 8, 14, 23, 24, 29 and 30 have been amended. No new matter has been added.

Request for Additional Information

Applicants acknowledge the Examiner's Request for Additional Information. Applicants are not aware of any other information that may be material to the examination of this application, other than the materials which have already been cited and the materials which are being cited concurrently with the filing of this amendment.

Prior Art Rejections

Claims 1-6, 9, 10, 14-19 and 23-30 stand rejected under 35 U.S.C. § 102(b) based on Ellipsus White Paper -- InfiniteMAP™ ("Ellipsus"). Claims 7, 8, 11-13 and 20-22 stand rejected under 35 U.S.C. § 103(a) based on Ellipsus in view of U.S. Patent Application Publication no. 2001/0037192 of Shimamoto et al. ("Shimamoto").

Applicants respectfully traverse the rejections. Although the above amendments are believed to render the present rejections moot, the amendments are made only to place the claims in what Applicants consider to be better form. The amendments are not made in response to the rejections, since (as explained below) no such amendments are believed to be necessary.

Before discussing the cited references, a brief overview of the present invention may be helpful. The present invention is specifically directed to solving various problems associated with the previously-existing processes by which wireless services subscribers can purchase or license digital products designed for use in wireless communication devices (e.g., games and other applications, ring tones, wallpapers, etc.) for use on their mobile devices (e.g., cell phones, PDAs, etc.). The invention is also directed to a process by which multiple digital product providers can make their digital content available (“publish”) simultaneously to various wireless services subscribers and improving the ability to manage those published digital products. In certain embodiments, the invention is implemented in a download manager which is operatively coupled between a wireless telecommunications network and a wireline network (e.g., the Internet).

The aforementioned goals are achieved, at least in part, by defining in a server system **a plurality of “domains”**, as recited in Applicants’ independent claims. The use of domains in the manner recited in the claims is an important aspect of the present invention’s highly efficient technique of digital content publication, management, and delivery. The technique of the present invention is believed to be considerably more efficient than any comparable technique in the prior art.

Specifically, each domain represents **a different subset of a plurality of wireless services subscribers**, where each subset includes multiple subscribers. **Further, each domain represents a billing relationship** between a business entity and the corresponding subset of the plurality of wireless services subscribers. In addition, the plurality of domains represent **a partitioning of content designed for use**

in wireless communication devices, for purposes of making the content available to the wireless services subscribers. For example, a wireless services subscriber may only have access to the digital products that are published for his domain; or, a particular digital product supplier may only be authorized to publish and manage content for some domains but not others.

The cited art does not disclose or suggest these features, either individually or in combination. In particular, neither Ellipsus nor Shimamoto discloses or suggests a method of providing access to content for use in wireless communication devices, which comprises (*inter alia*) operating a server system to store domain data defining a **plurality of domains**, each domain representing a different subset of a plurality of wireless services subscribers, wherein each said subset of the plurality of wireless services subscribers includes more than one wireless services subscriber, **wherein each of the domains further represents a billing relationship between a business entity and the corresponding subset of the plurality of wireless services subscribers, and wherein the plurality of domains further represent a partitioning of content designed for use in wireless communication devices for purposes of making the content available to the wireless services subscribers.**

Furthermore, these claim features would not be obvious based on any combination of the cited art, particularly within the context of the overall combination of claim features.

As noted, the rejections are believed to be moot in view of the amendments to the independent claims. Nonetheless, Applicants respectfully submit the following comment regarding the stated basis for the rejection.

In referring to the Figure on page 3 of Ellipsus, the Examiner contends that “it is inherent that there would be multiple domains based on different device capabilities and user profiles) each domain representing a different subset of a plurality of wireless services subscribers” (Office Action, p. 3). Applicants respectfully disagree; those features are **not** inherent in the cited reference, nor are they obvious in view thereof. “Inherency . . . may not be established by mere probabilities or possibilities. The mere fact that a certain thing **may** result from a given set of circumstances is not sufficient.” *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed. Cir. 1991) (quoting *In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) (emphasis added)). Further, if the Examiner intends to rely upon extrinsic evidence to support a contention of inherency, the extrinsic evidence “must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by one of ordinary skill.” *Continental Can Co.* at 1268. Therefore, the rejection is believed to be improper notwithstanding the above claim amendments.

For the foregoing reasons, therefore, all pending claims are believed to be patentable over the cited art.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

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